

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT
AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER II: CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

PART 4

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
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AUTHORITY: Implementing and authorized by Section 5-25 of the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 13905, effective July 1, 1998, for a maximum of 150 days; amended by emergency rulemaking at 22 Ill. Reg. 19096, effective October 1, 1998, for a period to expire November 27, 1998; adopted at 22 Ill. Reg. 20964, effective November 20, 1998; amended at 32 Ill. Reg. 16388, effective September 24, 2008; recodified, pursuant to PA 96-795, from 44 Ill. Adm. Code 526 to 44 Ill. Adm. Code 4 at 35 Ill. Reg. 10151; amended at 36 Ill. Reg. 10951, effective August 6, 2012; recodified Title heading at 39 Ill. Adm. Code 5903; amended at 40 Ill. Reg. 456, effective January 15, 2016; amended at 40 Ill. Reg. 11260, effective September 1, 2016; Subpart Q and R headers recodified at 42 Ill. Reg. 18550; amended at 43 Ill. Reg. 1781, effective February 15, 2019; amended at 44 Ill. Reg. 3884, effective March 13, 2020; amended at 46 Ill. Reg. _____, effective _____.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 4.2015 Competitive Sealed Proposals

a) Competitive Sealed Proposals may be used whenever permitted by the Code and

as described in this Part.

- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories. Note that the following services, if they are professional and artistic, must be procured in accordance with Section 4.2035.
 - 1) electronic data processing equipment, software and services;
 - 2) telecommunications equipment, software and services;
 - 3) consulting services;
 - 4) employee benefits and management of those benefits; and
 - 5) insurance and banking services.
- c) Competitive Sealed Proposals may be used on a case-by-case basis to procure other needs when it is determined in writing by the SPO that competitive sealed bidding is either not practicable or advantageous.
- d) The Competitive Sealed Proposal method differs from competitive sealed bidding in two ways: it permits discussions with competing offerors and changes in their proposals, including price and it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract. Factors to be considered in determining whether competitive sealed bidding is either not practical or advantageous include:
 - 1) When evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, when the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration;
 - 2) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - 3) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - 4) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality and contractual factors in order to determine the most advantageous offering to

the State. Quality factors include technical and performance capability and the content of the technical proposal;

- 5) whether the primary consideration in determining award may not be price; and
- 6) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State.

e) Content of the Request for Proposals

The RFP shall be prepared in accordance with Section 4.2010 (Competitive Sealed Bidding), provided that it shall also include:

- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award;
- 2) a statement of when and how price should be submitted.
 - A) The RFP shall identify in the solicitation what parts or features of the work are essential and what options may be included in the project. An option is a right to purchase additional supplies or services identified in the solicitation and directly relates to additional features or services of the underlying supply or service. All options must be clearly identified in the solicitation as optional work.
 - B) The solicitation shall identify how the university will evaluate offers to determine the most advantageous proposal for award purposes by identifying whether options will or will not be included in the evaluation.
 - C) The State expects prices for the required and optional supplies and services to be the lowest competitive market prices available for a customer of like type and of like circumstance. If the university solicits required and optional supplies or services, but awards based on the required supplies and services, the university may reject any response to the solicitation if the required or optional prices are materially unbalanced in relation to each other. For example, if a vendor submits an artificially low price for the required supplies and services but has submitted an artificially high price for the options, the prices are presumed to be unbalanced. Unbalanced prices are not conducive to competitive comparison

and may not be in the best interests of the State.

D) Evaluation of options does not obligate the university to exercise those options. If the university adds options not accepted at the time of contract award, a change order shall be executed based on the price provided in the contract. Notice of the exercise of the options shall be published to the Bulletin 14 days in advance of exercise of the options.

E) Pricing for any renewal terms identified in the solicitation shall be applied in determining the price. A renewal term is not an option; and

3) a statement that revisions may be requested, after discussions, for the purpose of obtaining best and final offers.

f) Receipt and Registration of Proposals

1) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP in the presence of a State witness, or through an electronic procurement system approved by the CPO-HE.

2) The person opening the proposals shall not serve as a witness. The name of the person opening the proposals, the name of the person serving as the State witness, the name of each offeror, the number of modifications received (if any), a description sufficient to identify the supply or service item offered, a notation that the package contains a price proposal, and such other information as determined by the CPO-HE or SPO shall be recorded on a form prescribed by the CPO-HE, read aloud, and otherwise made available through an electronic procurement system approved by the CPO-HE.

g) Evaluation of Proposals

1) Evaluation Factors in the RFP. The RFP shall state all of the evaluation factors, including price, and their relative importance. Evaluation subfactors, if any, and their relative importance must be finalized prior to the opening and made available for inspection and copying upon opening. However, all price subfactors and their relative ranking must be shown in the RFP.

A) Demonstrations or presentations may be part of the evaluation criteria if provided for in the solicitation. The results of a

demonstration or presentation may be included in scoring the proposal or to confirm the validity of the written proposal.

- B) The criteria for demonstrations or presentations shall relate to the performance and intended use of the supply or service.
- C) The RFP shall state the criteria for being invited to provide a demonstration or presentation.
- D) Demonstrations or presentations shall be conducted in a manner that provides fair and equitable treatment to offerors.

2) Evaluation. The evaluation shall be based solely on the evaluation factors set forth in the RFP and no other factors shall be considered, except as communicated in advance to each proposer with opportunity to make necessary adjustments to the proposal.

- A) Numerical rating systems shall be used unless another scoring tool is authorized by the SPO. Any scoring tool shall reflect the evaluation criteria and ranking set forth in the RFP and any subfactors identified at the opening.
- B) Proposals shall be submitted in ~~three~~two parts: the first, covering ~~the items except price;~~ and the second, covering commitment to diversity; and third, covering all other items ~~price.~~ Each~~The first~~ part shall be evaluated and ranked independent of all other parts~~the second part~~ of all proposals. Each member of the evaluation committee must read and evaluate the ~~third~~first part individually and independently of all other members. All fields of the individual scoring sheet must be completed by each member of the evaluation committee.

- i) The second part must include a Commitment to Diversity. (See Sec. 20-15 of the Code.) The evaluators shall consider the information provided in the response and the quality of that information when evaluating responses. Offerors must show a demonstrated commitment to diversity and require the allotment of points for Commitment to Diversity. Commitment to Diversity must account for 20% of the total points assigned to the third part.

- ii) Factors to be considered in the award of points for the Commitment to Diversity component include, but are not limited to:
- whether or how well the offeror, on the solicitation being evaluated, met the goal of contracting or subcontracting with businesses owned by women, minorities, or persons with disabilities;
 - whether the offeror, on the solicitation being evaluated, assisted businesses owned by women, minorities, or persons with disabilities in obtaining lines of credit, insurance, necessary equipment, supplies, materials, or related assistance or services;
 - the percentage of prior year revenues of the offeror that involve businesses owned by women, minorities, or persons with disabilities;
 - whether the offeror has a written supplier diversity program, including, but not limited to, use of diverse vendors in the supply chain and a training or mentoring program with businesses owned by women, minorities, or persons with disabilities; and
 - the percentage of members of the offeror's governing board, senior executives, and managers who are women, minorities, or persons with disabilities. [30 ILCS 500/20-15(e-5)]

- C) After completion of the individual evaluations, the evaluation committee may meet to discuss the proposals to ensure full understanding of the proposals. The evaluation committee shall meet if significant or substantial variance of scores, divergent scoring comments, or other information suggests the need for further discussion.
- D) No committee member shall attempt to unduly influence another member's scores by virtue of ~~the member's his or her~~ individual or organizational rank within the university. After consideration of comments, individual evaluators may, for good cause, adjust their scores on their individual scoring sheets.

- E) Evaluation of the parts ~~first and second part~~ may be conducted simultaneously, provided different evaluators are used to evaluate each part and no information is exchanged between the ~~two sets of~~ evaluators prior to completion of the evaluation. The price proposal shall be opened in the presence of a State witness and distributed to the appropriate evaluators.

h) Proposal Discussions with Individual Offerors

1) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the University's requirements and the offerors' proposals (e.g., determine in greater detail milestones, deliverables and timelines for completion of work); and
- B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the RFP.

2) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and clarifications of proposals. Discussion may be conducted by the university, in consultation with the SPO, with vendors reasonably susceptible of being awarded a contract based on qualifications and price. If during the discussions it is determined there is a need for any substantial revision of, or change to, the RFP, the RFP shall be canceled and may be resolicited to incorporate the clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

3) Best and Final Offers. The SPO may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO may conduct additional discussions or require another submission of best and final offers. The scope of the best and final offer and the number of vendors allowed to participate shall be defined by the SPO. The primary objective of best and final offers is to maximize the university's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. If an offeror does not submit either a notice of withdrawal or another best and final offer, the offeror's immediately previous offer will be construed as its best and final offer.

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516 i) Award
517 An award shall be made by the SPO pursuant to a written determination showing
518 the basis on which the award was found to be most advantageous to the State,
519 taking into consideration price and evaluation factors set forth in the RFP. The
520 contract file shall contain the basis on which the award is made. Any changes
521 negotiated after award, other than reduction in price, must be submitted to the
522 SPO for approval prior to contract execution.
523

524 (Source: Amended at 46 Ill. Reg. _____, effective _____)